Gormac Custom Manufacturing, Inc. and United Steelworkers of America, AFL-CIO, CLC. Case 8-RC-15382

September 22, 1997

DECISION AND DIRECTION

By Chairman Gould and Members Fox and Higgins

The National Labor Relations Board has considered objections to and challenged ballots in an election held June 14, 1996, and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 19 for and 16 against the Petitioner, with 4 challenged ballots, a number sufficient to affect the results of the election.

The Board has reviewed the record in light of the exceptions and brief and has decided to adopt the Regional Director's findings and recommendations.¹

The Employer has excepted, inter alia, to the Regional Director's recommendation that Objections 1, 2, and 3 be overruled. The Employer's exceptions allege, inter alia, that the Petitioner's inclusion of signatures from three unit employees on a prounion leaflet distributed on election day was tantamount to forgery and a breach of confidentiality so as to constitute grounds for setting aside the election. The Regional Director found that the three employees' signatures were reproduced from a document which the employees signed, and that the document contained a statement that, "This further authorizes the Union to . . . sign my name to union leaflets." We have reviewed this document, a redacted version of which (omitting names of all but the three employees whose affidavits are relied on by the Employer) we have attached to our decision as Appendix A, and we adopt the Regional Director's

The Employer, however, argues that it is entitled, at the least, to an evidentiary hearing on the basis of affidavits it submitted from the employees stating that they were told at the time they signed the document that their signatures would be confidential and that the document would only be used to obtain a representation election. We disagree. Because the document signed by the employees expressly authorized the Petitioner to sign their names to union leaflets, we find that even if oral misrepresentations were made to these employees regarding the confidentiality of their signatures, the use of their signatures on the Union's leaflet cannot be characterized as such a "deceptive campaign practice as to improperly involve the Board and its process, or the use of forged documents which render the voters unable to recognize the propaganda for what it is." Midland National Life Insurance Co., 263 NLRB 127, 131 (1982). Nor do we find that the election-day leaflet can be properly characterized, in the language of the Sixth Circuit, as "a misrepresentation and deception pervasive and artful enough to interfere with employees' fair and free choice to such an extent as to require a new election." Dayton Hudson Dept. Store v. NLRB, 987 F.2d 359, 366 (6th Cir. 1993), on remand 314 NLRB 795 (1994), affd. 79 F.3d 546, 550-551 (1996).

DIRECTION

IT IS DIRECTED that this proceeding is remanded to the Regional Director for the purpose of taking actions consistent with this Decision and Direction.

APPENDIX A

UNITED STEELWORKERS OF AMERICA, AFL–CIO, CLC

I hereby authorize the United Steelworkers of America to represent me for the purposes of collective bargaining with my employer (Gormac Mfg.). This further authorizes the Union to send my name to the National Labor Relations Board and sign my name to union leaflets. (Addresses and telephone numbers are omitted; dates are in 1996.)

Name & Date	Shift and Dept
Harry Stitt—4/22	(1)—Mach.
Tom Jones—4/22	(2)—Mach.
Dan Fraser—4/22	(2)—Mach.

¹ Member Higgins, in agreement with former Member Cohen's dissent in *Vanalco, Inc.*, 315 NLRB 618 (1994), concludes that the eligibility of individuals on medical leave should be based on whether there is a reasonable prospect that they will return to work. Accordingly, he would remand the issue of Galchick's eligibility to the Regional Director for further consideration based on this test for eligibility.